

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

ORDER ADOPTING REPORT AND RECOMMENDATION FOR DISMISSAL,
CERTIFYING AN APPEAL WOULD NOT BE TAKEN IN GOOD FAITH
AND DENYING LEAVE TO APPEAL *IN FORMA PAUPERIS*

On June 7, 2016, Plaintiff Elroy Ladell Richman, a resident of West Memphis, Arkansas, filed a *pro se* complaint on the form used for commencing actions pursuant to 42 U.S.C. § 1983 (ECF No. 1), accompanied by a motion to proceed *in forma pauperis* (ECF No. 2). On June 8, 2016, U.S. Magistrate Judge Tu M. Pham issued an order granting leave to proceed *in forma pauperis*. (ECF No. 5.) Plaintiff filed an amended complaint on June 17, 2016. (ECF No. 6.)

On June 17, 2016, Magistrate Judge Pham issued a Report and Recommendation (“R&R”) in which he recommended dismissing the case *sua sponte* pursuant to 28 U.S.C. § 1915(e)(2)(B). (ECF No. 7.) Objections to the R&R were due on or before July 5, 2016. See Fed. R. Civ. P. 72(b)(2); see also Fed. R. Civ. P. 6(a), (d). However, Plaintiff has filed no objections.

In Plaintiff's original complaint, he appears to allege that after leaving a Regions Bank in West Memphis, Arkansas, he was harassed by police officers and accused of trespassing. When the officers ordered him to put his hands on the front of the police vehicle, Plaintiff tried to run away. He alleges that he was tased by one officer and that another tripped him, injuring his toes. (ECF No. 1 at 2.) Plaintiff contends that “[a]ll these actions was under government jurisdiction,” and wants the report reviewed by the Supreme Court. (*Id.* at 3.) He seeks monetary damages. (*Id.*)

In Plaintiff's amended complaint, he makes various rambling and incoherent statements, alleging that the United States has used technology and higher sciences to cause metals to collect in his body, interrupt his speech, impair him with undetectable devices in his left hip, and take partial control over his nerves. (ECF No. 6 at 2.) He again seeks monetary damages. (*Id.* at 3.)

In the R&R, Magistrate Judge Pham determined that Plaintiff's allegations in this case do not state any claim under 42 U.S.C. § 1983, which applies only to persons and entities acting under color of state law. The United States acts under color of federal law. The Magistrate Judge also determined that Plaintiff's claims against the United States are barred by sovereign immunity. *See United States v. Testan*, 424 U.S. 392, 296 (1976) (monetary relief); *United States v. Certain Land Situated in City of Detroit*, 361 F.3d 305, 307 (6th Cir. 2004) (injunctive relief). Plaintiff has not identified a waiver of sovereign immunity for any claims asserted in this case.

The Court finds no error in Magistrate Judge Pham's conclusions. Therefore, the R&R is ADOPTED, and this case is DISMISSED pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii)-(iii).

It is CERTIFIED, pursuant to Federal Rule of Appellate Procedure 24(a), that any appeal in this matter by Plaintiff is not taken in good faith. Leave to appeal *in forma pauperis* is, therefore, DENIED. Accordingly, if Plaintiff files a notice of appeal, he must also pay the full \$505 appellate filing fee or file a motion to proceed *in forma pauperis* and supporting affidavit in the Sixth Circuit Court of Appeals.

The Clerk is directed to prepare a judgment.

IT IS SO ORDERED.

s/ James D. Todd
JAMES D. TODD
UNITED STATES DISTRICT JUDGE